

AMENDED IN SENATE MAY 13, 2004

AMENDED IN SENATE MARCH 16, 2004

SENATE BILL

No. 1333

Introduced by Senator Perata
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Lieber)

February 18, 2004

An act to add Section 120956 to the Health and Safety Code, and to add Section 14105.75 to the Welfare and Institutions Code, relating to prescription drugs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1333, as amended, Perata. Prescription drug reimbursement: pharmacy purchases from Canadian sources: Medi-Cal: AIDS Drug Assistance program.

(1) Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care services, including prescription drugs. Existing law authorizes the department to enter into contracts with manufacturers of drugs on a bid or nonbid basis and requires the department to maintain a list of those drugs for which contracts have been executed. Existing law requires that contracts executed pursuant to this provision be for the manufacturer's best price. Existing law defines "best price" as the negotiated price, or the manufacturer's lowest price available to any class of trade organization or entity, including, but not limited to, wholesalers, retailers, hospitals, repackagers, providers, or governmental entities within the United States, that contracts with a manufacturer for a specified price for drugs,

inclusive of cash discounts, free goods, volume discounts, rebates, and on- or off-invoice discounts or credits.

Existing law provides that any pharmacy located outside of this state that delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into this state is considered a nonresident pharmacy and requires a nonresident pharmacy to register with the California State Board of Pharmacy, *including the payment of a registration fee*, and comply with all lawful directions of and requests for information from the state in which it is a resident.

Existing federal law requires any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug that is imported or offered for import into the United States to register with the federal Secretary of Health and Human Services, report a list of each drug introduced for commercial distribution, and provide required information and statements.

This bill would authorize, notwithstanding any other provision of law, the department to reimburse a pharmacy that provides to a Medi-Cal beneficiary a prescription drug that was purchased from a Canadian pharmacy. *The bill would require the Canadian pharmacy to be licensed by the board as a pharmacy and pay a registration fee.* This bill would provide that reimbursement for that prescription drug may be in an amount up to an established percentage less than the most recent allowable drug product price, not to exceed 50% of the difference between the purchase price from the Canadian pharmacy and the purchase price the pharmacy would have paid to a pharmaceutical wholesaler.

(2) Existing law requires the Director of Health Services, to the extent that state and federal funds are appropriated in the Budget Act for this purpose, to establish a program, known as the AIDS Drug Assistance program (ADAP) to provide drug treatments to persons infected with human immunodeficiency virus (HIV). Existing law requires the director to establish a rate structure for reimbursement for the cost of each drug included in the program and requires that the rates be established at not less than the actual cost of the drug. Existing law requires the director to develop, maintain, and update a list of drugs provided under the program and authorizes the director to purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug.



This bill would authorize, notwithstanding any other provision of law, the department to reimburse, in the same manner described in (2) above, a pharmacy that has provided to a person eligible for benefits under ADAP a prescription drug that was purchased from a Canadian pharmacy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 120956 is added to the Health and
2 Safety Code, to read:
3 120956. (a) Notwithstanding any other provision of law, the
4 department may reimburse a pharmacy that provides to a person
5 eligible for benefits under this chapter a prescription drug that was
6 purchased from a Canadian pharmacy, and shall reimburse that
7 pharmacy for those prescription drugs pursuant to this section.
8 (b) The reimbursement rate for a prescription drug described in
9 subdivision (a) may be up to, but not exceeding, ~~10~~ 10 percent
10 less than the most recent allowable drug product price, but in no
11 case shall this reduced reimbursement rate be more than 50 percent
12 of the difference between the purchase price from the Canadian
13 pharmacy and the purchase price the pharmacy would have paid
14 to a pharmaceutical wholesaler.
15 (c) Notwithstanding any other provision, a drug shall not be
16 eligible for reimbursement under this section if the department
17 finds that the drug price, after rebates from the drug's
18 manufacturer, is the same as or lower than the lowest available
19 Canadian price for the same drug.
20 (d) In order for a pharmacy to be reimbursed pursuant to this
21 section, the Canadian pharmacy from which it purchases a
22 prescription drug shall meet the requirements for ~~a nonresident~~
23 ~~pharmacy as specified in Section 4112 of the Business and~~
24 ~~Professions Code, as appropriate, licensure by the California State~~
25 ~~Board of Pharmacy as a pharmacy~~ and comply with all lawful
26 directions and licensing and registration requirements of the
27 applicable Canadian regulatory and licensing agency or agencies.
28 *A fee shall be assessed biennially and shall be the fee specified in*
29 *subdivision (a) of Section 4400 of the Business and Professions*
30 *Code.*

1 (e) A pharmacy shall not be subject to any adverse action under
2 state law solely because the pharmacy acted in accordance with
3 this section.

4 SEC. 2. Section 14105.75 is added to the Welfare and
5 Institutions Code, to read:

6 14105.75. (a) Notwithstanding any other provision of law,
7 the department may reimburse a pharmacy that provides a
8 prescription drug that was purchased from a Canadian pharmacy
9 to a Medi-Cal beneficiary, and shall reimburse that pharmacy for
10 those prescription drugs pursuant to this section.

11 (b) The reimbursement rate for a prescription drug described in
12 subdivision (a) may be up to, but not exceeding, ~~10~~ 10 percent
13 less than the most recent allowable drug product price, but in no
14 case shall this reduced reimbursement rate be more than 50 percent
15 of the difference between the purchase price from the Canadian
16 pharmacy and the purchase price the pharmacy would have paid
17 to a pharmaceutical wholesaler.

18 (c) Notwithstanding any other provision, a drug shall not be
19 eligible for reimbursement under this section if the department
20 finds that the drug price, after rebates from the drug's
21 manufacturer, is the same as or lower than the lowest available
22 Canadian price for the same drug.

23 (d) In order for a pharmacy to be reimbursed pursuant to this
24 section, the Canadian pharmacy from which it purchases a
25 prescription drug shall meet the requirements for ~~a nonresident~~
26 ~~pharmacy as specified in Section 4112 of the Business and~~
27 ~~Professions Code, as appropriate, licensure by the California State~~
28 ~~Board of Pharmacy as a pharmacy~~ and comply with all lawful
29 directions and licensing and registration requirements of the
30 applicable Canadian regulatory and licensing agency or agencies.
31 *A fee shall be assessed biennially and shall be the fee specified in*
32 *subdivision (a) of Section 4400 of the Business and Professions*
33 *Code.*

34 (e) A pharmacy shall not be subject to any adverse action under
35 state law solely because the pharmacy acted in accordance with
36 this section.